

The Administrative Law Judge had the opportunity to observe the in-person testimony of the claimant as well as certain of the other witnesses. He determined that

claimant failed to carry his burden of proof that the alleged accidental injury arose out of and in the course of employment. The Appeals Board takes into consideration the Administrative Law Judge's opportunity to observe claimant's testimony in assessing his credibility. Accordingly, the Appeals Board gives some deference to his conclusions in that regard.

Based upon the Appeals Board review of the record as a whole, including the expert and lay witness testimony and the medical records and reports in evidence, we find that the Order denying medical treatment by the Administrative Law Judge should be affirmed.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the October 5, 1995 Order of Administrative Law Judge Floyd V. Palmer should be, and the same is, hereby affirmed.

IT IS SO ORDERED.

Dated this ____ day of January 1996.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Roger D. Fincher, Topeka, KS
Ronald J. Laskowski, Topeka, KS
Floyd V. Palmer, Administrative Law Judge
Philip S. Harness, Director